

ORDINANCE NO. 95- 39

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AMENDING THE 1989 PALM BEACH COUNTY COMPREHENSIVE PLAN ADOPTED BY ORDINANCE NO. 89-17, AS AMENDED; AMENDING THE LAND USE ELEMENT PROVISIONS PERTAINING TO THE AGRICULTURAL RESERVE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES OF PALM BEACH COUNTY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on August 31, 1989, the Palm Beach County Board of County Commissioners adopted the 1989 Comprehensive Plan by Ordinance No. 89-17; and

WHEREAS, the Palm Beach County Board of County Commissioners amends the 1989 Comprehensive Plan as provided by Chapter 163, Part II, Florida Statutes; and

WHEREAS, that on December 20, 1994 the Palm Beach County Board of County Commissioners adopted an amendment to the text of the land use element of the 1989 Comprehensive Plan regarding an area known as the agricultural reserve in Ordinance 94-36; and

WHEREAS, the Department of Community Affairs issued a statement of intent to find the comprehensive plan amendment adopted by Ordinance 94-36 not in compliance on February 22, 1995; and

WHEREAS, Palm Beach County and the Department of Community Affairs entered into a compliance agreement on June 13, 1995 which identifies remedial amendments that if enacted by Palm Beach County would be found in Compliance by the Department; and

WHEREAS, the Palm Beach County Board of County Commissioners, as the governing body of Palm Beach County, conducted a single public hearing as provided in section 163.3184(16)(d), Fla. Stat. (1993) on July 18, 1995 to

1 consider adoption of a comprehensive plan amendment consistent
2 with the terms of the Compliance Agreement of June 13, 1995.

3 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF
4 COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

5 Part I. Amendments to the Land Use Element of the
6 1989 Comprehensive Plan

7 Amendments to the Land Use Element of the Palm Beach
8 County 1989 Comprehensive Plan, are hereby adopted and are
9 attached to this Ordinance in Exhibit 1.

10 Part II. Repeal of Laws in Conflict

11 All local laws and ordinances applying to the
12 unincorporated area of Palm Beach County in conflict with any
13 provision of this Ordinance are hereby repealed to the extent
14 of such conflict.

15 Part III. Severability

16 If any section, paragraph, sentence, clause, phrase,
17 or word of this Ordinance is for any reason held by the Court
18 to be unconstitutional, inoperative or void, such holding
19 shall not affect the remainder of this Ordinance.

20 Part IV. Inclusion in the Code of Laws and
21 Ordinances

22 The provisions of this Ordinance shall become and be
23 made a part of the code of laws and ordinances of Palm Beach
24 County, Florida. The Sections of the Ordinance may be
25 renumbered or relettered to accomplish such, and the word
26 "ordinance" may be changed to "section," "article," or any
27 other appropriate word.

28 Part V. Effective Date

29 The effective date of this plan amendment shall be
30 the date a final order is issued by the Department of
31 Community Affairs or Administration Commission finding the
32 amendment in compliance in accordance with section 163.3184,

1 Florida Statutes, whichever occurs earlier. No development
2 orders, development permits, or land uses dependent on this
3 amendment may be issued or commence before it has become
4 effective. If a final order of noncompliance is issued by the
5 Administration Commission, this amendment may nevertheless be
6 made effective by adoption of a resolution affirming its
7 effective status, a copy of which resolution shall be sent to
8 the Department of Community Affairs, Bureau of Local Planning,
9 2740 Centerview Drive, Tallahassee, Florida 32399-2100.

10 APPROVED AND ADOPTED by the Board of County
11 Commissioners of Palm Beach County, on the 19th day of
12 September, 1995.

13 PALM BEACH COUNTY, FLORIDA,
14 BY ITS BOARD OF COUNTY COMMISSIONERS

15 By [Signature]
16

Vice- Chair

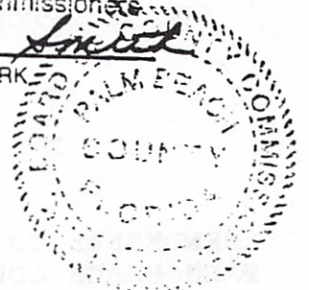
DONALD M. WILKEN, CLERK
Board of County Commissioners

By [Signature]

DEPUTY CLERK

17 APPROVED AS TO FORM AND
18 LEGAL SUFFICIENCY

19 [Signature]
20 COUNTY ATTORNEY



21 Filed with the Department of State on the 29th day of
22 September, 1995, at N/A.M.

AGRICULTURAL RESERVE

The Agricultural Reserve area is a portion of the County that encompasses unique farmland and wetlands. It is also an area that may become an urbanized area. It is designated as an area to be preserved primarily for agricultural use if possible, and if not, to be developed only at low residential density.

To preserve the area for agricultural use, it is an area for sending of Transfer of Development Rights (TDRs); it is an area where a Purchase of Agricultural Conservation Easement (PACE) program and similar programs are offered, and it is an area where unique development options all are targeted to achieving the goal of farmland protection and agricultural perpetuation. It is through this combination of public action and the private development that a viable program for the protection of farmlands and the perpetuation of agriculture will occur.

A. MAINTENANCE & ENHANCEMENT OF AGRICULTURE

The Palm Beach County Board of County Commissioners is committed to maintaining and enhancing agriculture in the Agricultural Reserve Area and recognizes the Florida Legislature's intent, expressed in paragraph 163.3177(11)(a), Florida Statutes, to maintain the economic viability of agriculture and other predominantly rural land uses.

1. The Purchase of Agricultural Conservation Easement (PACE) Program

- a. Implementation. To maintain and enhance agricultural use in the Agricultural Reserve Area, the Board of County Commissioners shall work to establish and fund a voluntary Purchase of Agricultural Conservation Easement (PACE) Program.
- b. Administration. The County Commission shall adopt a PACE Program Ordinance which will:
 - 1) include criteria for a standard easement agreement;
 - 2) establish eligibility requirements;

**AMENDMENTS TO THE LAND USE ELEMENT OF THE
PALM BEACH COUNTY 1989 COMPREHENSIVE PLAN**

2. Other Programs

The Board of County Commissioners shall develop and implement programs to address obstacles to agriculture identified by the Agricultural Reserve Citizens' Committee. These programs shall include revisions to Land Development Regulations to facilitate farming and ensure compatibility with surrounding land uses.

Other programs may include economic development of agriculture and cost sharing for improvements in farming practices to ensure compatibility with environmental objectives.

Additional programs which are to be pursued include land exchange opportunities, land acquisition, tax exempt financing, linkages to the Linked Open Space Program, wetlands creation, and similar activities which are compatible with the protection and perpetuation of agriculture.

3. Agricultural Land Uses

Uses permitted in the Agricultural Production Category are allowed within areas designated as Agricultural Reserve where permitted by the terms of the Palm Beach County Unified Land Development Code (ULDC). Other high-value added agricultural uses (such as packing houses, canneries, specialty food processing, etc), with buffering to address compatibility, will be permitted pursuant to amendments to the ULDC.

4. Transfer of Development Rights

Density may be transferred from lands in the Agricultural Reserve area to Planned Development Districts (PDDs), within the Urban Service Area consistent with the TDR regulations, at a rate of one dwelling unit per acre.

5. ULDC Modifications

Prior to September 1, 1996, the Agriculture Reserve Zoning District shall be amended to accommodate the additional agricultural uses as addressed above. Also, the TDR provisions of the ULDC shall be amended to accommodate the concepts contained above.

B. DEVELOPMENT ALTERNATIVES

As an alternative to agricultural land use, the following residential land uses shall be permitted within the Agricultural Reserve Area as further regulated by the Unified Land Development Code:

1. The land shall be allowed to develop as Agricultural Residential at a density of one unit per five acres (1DU/5AC);
2. The land may be developed at a density of one dwelling unit per acre, in an Agricultural Reserve PDD (AgR-PDD), under the following options:
 - a. 80/20 Option: The purpose of the 80/20 option is to provide for the reasonable development of land in such a manner which provides compatibility and does not detract from the protection and perpetuation of agriculture within the Agricultural Reserve Area.
 - 1) The minimum size of the AgR-PDD (80/20) shall be 40 acres.
 - 2) Buildable area of the AgR-PDD (80/20) shall be contained in one compact area. It shall not exceed 20 percent of the gross acreage. However, land dedicated as rights-of-way for the County's Thoroughfare System, land allocated for the internal street system, and water areas required for on-site drainage retention may be deducted from the 80 percent. However, in no event, shall the buildable area be increased to greater than 25% of the gross acreage.
 - 3) The remainder of the 80 percent shall be maintained in agriculture, passive recreation or other open space use. Recreation or other open space uses shall be passive or rural in nature. No open space or recreational use that is intensive in nature, such as a golf course; or, that which would interfere with the future practice of agriculture on the subject property, or continued practice of agriculture on adjacent properties, is acceptable.

b. 60/40 Option: The purpose of the 60/40 option is to protect farmland and to perpetuate the practice of agriculture within the Agricultural Reserve Area.

- 1) The minimum size of the AgR-PDD (60/40) shall be 250 acres exclusive of right-of-way as shown on the Thoroughfare Identification Map. The calculation of the development area (40%) and the protected area (60%) shall be based upon the PDD acreage, less the right-of-way .
- 2) The development area of the AgR-PDD (60/40) shall not exceed 40 percent of the gross acreage less right-of-way as shown on the Thoroughfare Identification Map and shall meet the following parameters:
 - a) be contained in one compact area
 - b) shall contain uses normally associated with a PDD such as the street system, water retention areas, water amenity areas, active recreational areas (including golf courses), open space which is integral to the PDD, civic center sites, and the like;
 - c) the development area and the protected area need not be contiguous;
 - d) the development area must be situated with frontage on either SR-7, SR-806 (Atlantic), SR-804 (Boynton Beach Boulevard), Clint Moore Road, or Lyons Road extending north of Boynton Beach Boulevard. Other thoroughfares may be added to this list, by plan amendment, consistent with the goal of preservation and perpetuation of agriculture in the Agricultural Reserve.
 - e) the development area shall not be situated west of SR-7.

- 3) The protected area of the AgR-PDD(60/40) shall consist of, at least, 60 percent of the gross acreage less right-of-way identified on the Throughfare Identification Map and shall meet the following parameters:
- a) the protected area can be located anywhere in the Agricultural Reserve provided that:
 - * the minimum contiguous area, of a single protected area created with the AgR-PDD, shall be 150 acres; and,
 - * the protected area shall have a common boundary with other agricultural lands, fallow land, or land which is projected to otherwise be in an open space land use;
 - b) it is to be used for crop production, pasture, or equestrian purposes, or may be retained as fallow land. Accessory structures such as barns and pump structures are permitted. Agricultural support uses such as processing facilities, farmworker housing, and the like shall not be accommodated in the protected area of an AgR-PUD; nor shall new residential uses be accommodated thereon.
 - c) when the protected area is contiguous to the development area, it shall be shown on the AgR-PDD(60/40) Master Plan and Plat and designated for the purpose of agriculture land use on the master plan and plat; further, a restrictive covenant limiting it to such use, made in favor of Palm Beach County shall be recorded concurrent with the plat; as an alternative, the protected area may be subjected to an agricultural conservation easement to Palm Beach County, or may be deeded to the County;
 - d) when the protected area is not contiguous to the development area, the property shall be zoned in an agriculture preservation zoning district simultaneously with approval of the AgR-PDD, its use shall be restricted with a restrictive covenant limiting it to such use, made in favor of Palm Beach County, and a boundary plat shall be recorded with a reservation on the face of the plat limiting it to such use; as an alternative, the

protected area may be subjected to an agricultural conservation easement to Palm Beach County, or may be deeded to the County.

- 4) The design of an AgR-PDD shall provide for the following:
 - a) when golf course, water areas, and similar amenities are provided in the development area, they shall be situated to serve as a buffer between residences and agricultural land uses;
 - b) Development areas of one AgR-PDD should be situated adjacent to existing, planned, or projected development areas. The protected areas shall be situated so as to provide for a common boundary with other agricultural lands, fallow land, or land which is projected to otherwise be in an open space land use;
 - c) an appropriate buffer between residences and adjacent agricultural uses, shall ensure mutual compatibility such that new residential uses do not adversely affect agricultural uses;
 - d) the development area shall use native or drought tolerant species for, at least, 50% of any landscape requirement.

3. Prior to September 1, 1996, the ULDC, shall be amended to create the Agricultural Reserve PUD (AgR-PUD). The AgR-PUD shall be consistent with the Agricultural Reserve Section of the Comprehensive Plan and shall accommodate the following:

- a. that the development area shall be compact, contiguous, and arranged as a unified whole and appropriately buffered so as not to interfere with the continued or future function of the protected area. For this purpose, a meandering or intrusion of the development area into the protected area would only be considered in an equestrian community,

- b. dedication requirements (e.g. civic use) and calculations for land uses (e.g. commercial pods) is to be based only upon the development portion of the AgR-PDD,
- c. In order to appropriately service the development areas which are contemplated by the above development options, PBC Utilities Department may allow extension of water and/or sewer facilities to the development area. Any such water and sewer mains shall run within the rights-of-way for the roadways identified in Section B.2.b.2).d); and, the point(s) of service connection shall be at the interface between the development area and the adjacent roadway. The cost of utilities shall be borne by the development without benefit of public installation with developer pay-back provisions (this exception does not prohibit payback arrangements among private parties), nor bonding or financing conducted under the auspices of Palm Beach County or its Utilities Department. However, this requirement shall not preclude the extension of water mains in other locations when necessary for system integrity e.g. "looping".
- d. the designation of the protected areas and development areas on the Future Land Use Map, through a County sponsored Map amendment initiated after approval of an AgR PDD.
- e. dedication of land or placement of a conservation easement in lieu of restrictive covenant shall be at the option of the property owner.

C. EXISTING LAND USES & REGULATORY ITEMS

1. Residential subdivisions and Planned Development Districts (PDDs) located in the Agricultural Reserve and approved by the Board of County Commissioners prior to January 1, 1990 are exempt from the provisions of the comprehensive plan related to the Agricultural Reserve and are governed by the terms and conditions of their existing approvals.

2. Within the Agricultural Reserve there are existing land uses which are benign to the purposes of the Reserve and/or which provide essential services for farmworkers and residents of the Reserve. The uses below are to be accommodated as a part of the continuation of the Reserve.
 - * Eternal Light Cemetery
 - * Faith Farms
 - * limited community serving commercial services in the vicinity of SR 806 and SR 7 as allowed by the Unified Land Development Code
 - * Churches, farmworker housing, and social service facilities
3. Commercial (retail, office, service) land use is to be limited to serving the needs of the farmworker community, existing residents, and future residents of an AgR-PDD. Commercial land use shall be allowed as a pod within a PDD master plan, provided that it is situated to serve the residents of the PDD as opposed to the general public.
4. Farmworker housing is critical to continuation of farming in the Agriculture Reserve, provisions shall be made for the adequate accommodation of such housing.
5. As a means to perpetuate agriculture, as noted in Section A.3, agricultural processing and high-value added uses are to be accommodated.
6. For any golf course which is constructed in the Agriculture Reserve, a management plan shall be developed which, at a minimum, shall contain the following:
 - a. an integrated pest management plan designed to prevent contamination of ground and surface water from pesticides, herbicides, and fertilizers;
 - b. a water quality and quantity monitoring plan with emphasis on impacts to adjacent wetlands and surface waters; and,
 - c. best management practices which, at a minimum, identify procedures to be followed for the construction, irrigation, operation, and maintenance of the golf course.

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7. The AgR may receive, from Palm Beach County, facilities and services at a lesser level of service than is provided in the Urban Service Area. Code and development order provisions shall be created which state this situation; and, which provide that special development district or other developer created programs and assessments may be imposed in order to provide facilities and services at the Urban Service Area level.
8. Prior to September 1, 1996, the Agricultural Reserve Zoning District shall be amended to accommodate the existing uses as addressed in this Section C.
9. When creating the ULDC provisions, consideration shall be given to providing minimum standards or performance criteria with respect to the use of the terms "contiguous" and "common boundary".

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, DOROTHY H. WILKEN, ex-officio Clerk of the
Board of County Commissioners certify this to be a
true and correct copy of the original filed in my office
on 9/19/95
DATED at West Palm Beach, FL on 10/10/95
DOROTHY H. WILKEN, Clerk
By: Phyllis A. House D.C.

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County Library
Sue's Dept.

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